

Calcagno Statement of Reasons

Having considered the factors enumerated in 18 U.S.C. § 3553 (a), including the Guidelines, I have determined that an appropriate sentence can be fashioned within the Guidelines, but with a departure. Thus, the sentence I have imposed represents a departure from the otherwise applicable Guideline range on the basis that the combination of the defendant's recently developed bilateral Bell's Palsy and his chronic, severe and degenerative arthritis, together with extraordinary family circumstances make the Guideline sentence unreasonable. The Bell's Palsy has paralyzed both sides of the defendant's face, making it difficult for him to open one of his eyes and causing that eye constantly to tear. At the same time, the defendant must endure the constant pain and disability of his chronic arthritis. It is not clear to me that sufficient accommodation can be made for the combination of these conditions in facilities operated by the Bureau of Prisons. In any event, there is a second factor that has informed my decision to depart. I find that the defendant is irreplaceable as the day-to-day personal care attendant for his aged mother. In addition, he is the primary caretaker of his wife and stepson, both of whom also have health problems that appear to have rendered them unable to manage their affairs without the defendant's help. A probationary sentence provides the best opportunity for this defendant to manage his own medical problems, while seeing to the needs of his relatives. The sentence with its requirement of restitution and limits on the defendant's full freedom, punishes the defendant appropriately for the culpability of the offense of conviction and deters him and others from similar wrongdoing. The public is protected by the restitution order and by the fact the defendant's prosecution will likely preclude his holding similar positions of trust in the future without significant and pervasive scrutiny.

UNITED STATES DISTRICT COURT
District of Massachusetts

UNITED STATES OF AMERICA

STATEMENT OF REASONS

V.

JOSEPH CALCAGNO

Case Number: **1: 04 CR 10350 - 001 - RCL**Charles W. Rankin, Esq.

Defendant's Attorney



The court adopts the factual findings and guideline application in the presentence report.

OR

The court adopts the factual findings and guideline application in the presentence report, except (see attachment, if necessary):



See Continuation Page

Guideline Range Determined by the Court:

Total Offense Level:	<u>13</u>		
Criminal History Category:	<u>III</u>		
Imprisonment Range:	<u> </u>	to <u>12</u>	months
Supervised Release Range:	<u> </u>	to <u>1</u>	years
Fine Range:	\$ <u>\$3,000.00</u>	to \$ <u>\$234,841.00</u>	

Defendant's Soc. Sec. No.: 000-00-2019Defendant's Date of Birth: 00-00-1950Defendant's USM No.: 25520-038

Defendant's Residence Address:

09/20/05

Date of Imposition of Judgment

Signature of Judicial Officer

/s/The Honorable Reginald C. LindsayJudge, U.S. District Court

Name and Title of Judicial Officer

Date

Defendant's Mailing Address:

DEFENDANT: JOSEPH CALCAGNO

CASE NUMBER: 1: 04 CR 10350 - 001 - RCL

STATEMENT OF REASONS

☒ Fine waived or below the guideline range because of inability to pay.Total Amount of Restitution: \$ \$66,632.28☐ Discretionary restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims, pursuant to 18 U.S.C. § 3663(a)(B)(ii) (or in offenses committed before April 23, 1996, pursuant to 18 U.S.C. § 3663(d)).☐ Restitution pursuant to the mandatory victim restitution provisions is not ordered in this title 18 property offense because the number of identifiable victims is so large as to make restitution impracticable, pursuant to 18 U.S.C. § 3663A(c)(3)(A).☐ Restitution pursuant to the mandatory victim restitution provisions is not ordered in this title 18 property offense because determining complex issues of fact and related to the cause of amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim is outweighed by the burden on the sentencing process, pursuant to 18 U.S.C. § 3663A(c)(3)(B).☐ For offenses committed on or after September 13, 1994 but before April 23, 1996 that require the total amount of loss to be stated, pursuant to Chapters 109A, 110, 110A, and 113A of Title 18, restitution is not ordered because the economic circumstances of the defendant do not allow for the payment of any amount of a restitution order, and do not allow for the payment of any or some portion of a restitution order in the foreseeable future under any reasonable schedule of payments.☐ Partial restitution is ordered, pursuant to 18 U.S.C. § 3553(c), for the following reason(s):

DEFENDANT: JOSEPH CALCAGNO
CASE NUMBER: **1: 04 CR 10350 - 001 - RCL**

Statement of Reasons - Page 3 of 4

STATEMENT OF REASONS

☐ The sentence is within the guideline range, that range does not exceed 24 months, and the court finds no reason to depart from the sentence called for by the application of the guidelines.

OR

☐ The sentence is within the guideline range, that range exceeds 24 months, and the sentence is imposed for the following reasons:

OR

☒ The sentence departs from the guideline range:

☐ upon motion of the government, as a result of a defendant's substantial assistance, or

☒ for the following specific reason(s):

☐ See Continuation Page

DEFENDANT: JOSEPH CALCAGNO

CASE NUMBER: 1: 04 CR 10350 - 001 - RCL

ADDITIONAL FINDINGS AND GUIDELINES APPLICATIONS EXCEPTION**ADDITIONAL REASONS FOR DEPARTURE FROM THE GUIDELINE RANGE**